



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant did not appear at the hearing. The landlord testified that the tenant was served with the application for dispute resolution and notice of hearing (the “Hearing Documents”) on December 13 by posting the Hearing Documents on the door of the rental unit. The landlord’s agent testified that he witnessed the tenant’s father, who lives next door to the tenant, remove the Hearing Documents from the door. The agent testified that the father and son have a close relationship. Service by posting documents on the door is permissible under the Act where the application is for an order of possession, but not for a monetary order. However, in the circumstances it is clear that the documents were received by a party with whom the tenant is associated and enjoys a close relationship. I found pursuant to section 71(2)(c) that the Hearing Documents were sufficiently served for purposes of the Act and the hearing proceeded in the tenant’s absence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord’s undisputed evidence is as follows. The tenancy began on or about September 7, 2010. Rent in the amount of \$575.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$287.50. The tenant failed to pay \$57.58 of his rent in the month of October and paid no rent whatsoever in the month of November. On November 27 the landlord served the

tenant with a notice to end tenancy by posting the notice to end tenancy on the door. The tenant further failed to pay rent in the month of December.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the tenant failed to pay \$57.58 of his rent in October, further failed to pay \$575.00 of his rent in November and by failing to vacate the rental unit pursuant to the notice to end tenancy, caused the landlord to lose a further \$575.00 in rental income in the month of December. I find that the landlord has established a claim for \$1,207.58 in unpaid rent and loss of income. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$287.50 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$970.08. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$970.08. The landlord may retain the security deposit.

Dated: January 06, 2011